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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,683	01/20/2004	Thomas E. Broome	1001.1720101	5270
28075 7590 10/15/2008 CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420				
EXAMINER				
SEVERSON, RYAN J				
ART UNIT		PAPER NUMBER		
3731				
MAIL DATE		DELIVERY MODE		
10/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/762,683

Applicant(s)

BROOME ET AL.

Examiner

Ryan Severson

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-36 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 July 2008 has been entered.

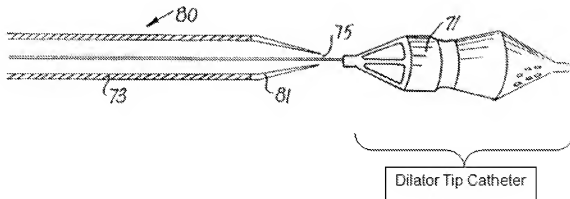
Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 4-11, 22 and 25-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Vale et al. (2002/0058963).** Vale et al. disclose a medical device (see figures 27-30) comprising an elongated tubular member (73) having a proximal and distal (81) segment, a dilator tip catheter (see annotated figure 27 below), a filter portion (71), and a guidewire (see figure 27). The distal segment expands radially as the proximal section of the dilator tip catheter passes there through because the outer diameter of the dilator tip catheter is greater than the inner diameter of the distal segment of the elongated tubular member (see figure 29).



Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 2 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vale et al. (2002/0058963) in view of Nilsson (5,873,851).** Vale et al. do not disclose the proximal segment of the tubular member varies in thickness along its length. Attention is drawn to Nilsson, who teaches a tubular member can have varying wall thickness (see column 5, lines 9-19) to provide a more flexible and resilient central section to assist in navigation through tortuous lumens. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the wall thickness of the proximal segment of Vale et al. along its length to provide a more flexible and resilient central section to assist in navigation through tortuous lumens.

6. **Claims 3, 12, 14-21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vale et al. (2002/0058963) in view Salahieh et al.**

(2004/0127936). Vale et al. do not disclose a braid in the distal segment. Attention is drawn to Salahieh et al., who teach a tubular member may have a braid in its distal end (see paragraph 18) to impart flexibility to the distal portion while maintaining axial stiffness. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the braid of Salahieh et al. in the distal end of the tube of Vale et al. to impart flexibility to the distal portion while maintaining axial stiffness.

7. **Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vale et al. (2002/0058963) in view of Salahieh et al. (2004/0127936) as applied to claim 12 above, and further in view of Nilsson (5,873,851).** The combination of Vale et al. and Salahieh et al. does not disclose the proximal segment of the tubular member varies in thickness along its length. Attention is drawn to Nilsson, who teaches a tubular member can have varying wall thickness (see column 5, lines 9-19) to provide a more flexible and resilient central section to assist in navigation through tortuous lumens. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the wall thickness of the proximal segment of the device of the combination of Vale et al. and Salahieh et al. along its length to provide a more flexible and resilient central section to assist in navigation through tortuous lumens.

Response to Arguments

8. Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.
9. Examiner notes that applicant has not provided any specific definition for what a dilator tip catheter may or may not be as the term "dilator tip catheter" does not appear in the specification. The structural limitations required by the dilator tip catheter set forth in the claims are met by the structure as interpreted above.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Severson whose telephone number is (571)272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.
11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. S./
Examiner, Art Unit 3731

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3731